

PATENT COOPERATION TREATY

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From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/AT2004/000012/WO 04/061388

International filing date (day/month/year)
23.01.2004

Priority date (day/month/year)
27.01.2003

International Patent Classification (IPC) or both national classification and IPC
B65D33/16, B65B51/04

Applicant
RUSTYDOG INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 65.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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International application No.
PCT/IT2004/000012

Published

WO 2004/067388 } A2, 12.08.2004
A3 07/10.2004

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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WO 2004/067388 A2 12.08.04
A3 07.10.04

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes:
No:

Claims
Claims

1-10

Inventive step (IS)

Yes:
No:

Claims
Claims

1-10

Industrial applicability (IA)

Yes:
No:

Claims
Claims

1-10

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Claim 1

Removable clips for closing or opening bags and the like as defined in the preamble of claim 1 are commonly known.

Several aspects of the present invention as defined in claim 1 are disclosed in the prior art.

The document DE-U-8433963 (D1; see Fig. 1, 2) discloses a clip having self-locking male and female parts and an articulation means in the form of a film hinge. Furthermore, this document describes a pair of separate tongues (11) projecting from each element on the end opposite to the film hinge. It is, however, not described in D1 whether these tongues would be adapted to serve as an anti-tampering means.

Another clip having self-locking male and female parts is disclosed in the document US-A-5713108 (D2; see Fig. 3).

Cutting edges on clips are also known. According to US-A-5054168 (D3), these cutting edges are formed on a flat clamping part of the clip (see Fig. 1) and according to US-A-5125133 (D4), the cutting edges are formed on the shoulder of the male part of the clip (see Fig. 1).

Although, thus, all parts of the clip as defined in claim 1 are known from the prior art, it is, nevertheless, not derivable from these documents why the skilled man should have been inclined to combine all these features and to arrange them on the clip in the manner defined in the present claim 1. In particular, it appears not to be obvious for the skilled man to provide the tongues in such a manner that they can serve as anti-tampering means and to arrange the cutting means on top of one of the flanks of the female members as defined in claim 1.

Accordingly, it appears that the present claim 1 meets the requirements of Article 33 (2), (3) and (4) PCT, its subject-matter being novel, involving an inventive step and being capable of industrial applicability.

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Claims 2 to 8

The claims 2 to 8 are directly or indirectly dependent on claim 1 and, therefore, also meet the requirements of Article 33 (2), (3) and (4) PCT.

Claims 9 and 10

It would appear that the method of assembling a clip on a container (claim 9) mainly includes steps which normally would be performed when applying a clip to the mouth of the container.

It is also evident that the apparatus claim 10 also includes quite conventional conveying means for the bags and for the clips.

It is, however, also true, that both claims clearly indicate a sealing step and the end of the method or a sealing means comprised in the apparatus, respectively, which sealing step or sealing means are not derivable from the available prior art.

Accordingly, it would appear that the claims 9 and 10 also meet the requirements of Article 33 (2), (3) and (4) PCT.

Re Item VII

Certain defects in the international application

Optional features of the invention should be defined in dependent claims (Rule 6.4 (a) PCT).

In the present case this would require removal of the features related to handle means from claim 1 and the formulation of an additional dependent claim including this particular feature.

Re Item VIII

Certain observations on the international application

There is indicated in several passages of the description and the claims that the bags should comprise an "invitation". There does not exist a technical interpretation of the

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word "invitation" in the English language which results in the fact that all text of the present application including this wording does not make any technical sense.

In the event that the word "invitation" should correspond to the Italian word "invito" (for which, in its technical meaning, no translation exists), then the word "invitation" should be replaced by a circumscribing expression such as "a prepared indication" throughout the application.